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July 19, 2007

Via ECF Filing

William H. Pauley III
United States District Court Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Lexington Insurance Company v. Rochdale Insurance Company*
ECF Case No.: 07 CV 3135
Our File No.: 0910.006

Honorable Sir:

We represent plaintiff Lexington Insurance Company ("Lexington") and we have conferred with counsel for defendant Rochdale Insurance Company ("Rochdale") to provide this letter, which Rochdale has approved, as a report outlining the parties' discovery plan pursuant to Rule 26(f) of the Federal Rules of Civil Procedure. Lexington issued an insurance policy (the "Lexington Policy") to Browning-Ferris Industries, Inc. ("BFI"). BFI made claims against a Lexington affiliate ("Lexington UK") and subsequently against Lexington under various insurance policies they had respectively issued. The BFI claims were resolved and Lexington ceded to Rochdale an amount asserted by Lexington to be reinsured by Rochdale pursuant to a reinsurance facultative certificate issued by Rochdale for the Lexington Policy.

Rochdale has refused to indemnify Lexington alleging that Lexington breached the notice provision of the parties' reinsurance contract. Rochdale also challenges the allocation to the Lexington Policy. Lexington brought this action seeking indemnification from Rochdale.

Accordingly, Lexington anticipates the subjects of discovery will include: (i) notice to Lexington of the BFI claimed first party property insurance losses; (ii) Lexington's notice to Rochdale; (iii) Lexington's reinsurance cession to Rochdale; (iv) Rochdale's refusal to pay the reinsurance billing and its responses to Lexington's notice and cession; and (v) prejudice, if any, Rochdale sustained from Lexington's alleged late notice. Rochdale anticipates that the subjects of discovery will include: (i) notice to Lexington and Lexington UK of the BFI environmental pollution losses; (ii) adequacy of Lexington's policies and practices for providing timely notice

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of loss to its reinsurers; (iii) the propriety of Lexington's allocation of the BFI environmental pollution loss; and (iv) prejudice, if any, Rochdale sustained from Lexington's alleged late notice.

The Parties agree to the following discovery schedule:

1. Information required by Fed. R. Civ. P. 26 (a)(1) is to be exchanged by August 3, 2007.
2. First request for the production of documents is to be served by August 29, 2007.
3. Documents responsive to the parties' first requests are to be produced by November 16, 2007.
4. Interrogatories pursuant to Rule 33.3(a) of the local Rules of the Southern District of New York are to be served by August 29, 2007 and shall be objected to and answered within sixty days.
5. Fact depositions to be completed by April 30, 2008, non-party depositions, including expert depositions, shall follow fact depositions and be completed by July 18, 2008.
6. The parties shall serve liability and/or damage expert reports by May 20, 2008.
7. Requests to Admit, if any, are to be served by April 30, 2008.
8. Further interrogatories, if any, are to be served by June 1, 2008.
9. All discovery is to be concluded by July 18, 2008.

Dates for dispositive motion practice and the pre-trial conference are to be determined by Your Honor. Enclosed for Your Honor are copies of the Complaint and Answer.

Respectfully submitted,


Mitchell S. Cohen

MSC:mns

cc: Andrew J. Costigan, Esq. (via fax and e-mail)
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